IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5914 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AADODIYA SUSHILABEN VINUBHAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

Mr.H.L.Jani, learned A.G.P. for the respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the order of detention passed on 19.7.99 by the District Magistrate, Bhavnagar District, Bhavnagar whereby the petitioner was detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is detained at Ahmedabad Central

Prison, Ahmedabad. The grounds of detention enclosed with the detention order show that at Police Station 'B' Division, Bhavnagar, 8 cases were registered against the petitioner for offences punishable under the Prohibition Act between the period 23.1.99 to 7.6.99. As per the detention order, 4 cases are pending in the Court and in 4 cases investigation is pending on the date of the detention order. The allegations against the petitioner is that she is engaged in the business of unauthorised liquor. Besides this, 4 witnesses have stated on 9.7.99 against the petitioner that she alongwith her associates have been beating witnesses and have been threatening them and have also used weapons against them. One of the witnesses has stated that a sum of Rs.885/- was taken out from his pocket by the petitioner. The witnesses, who have stated against the petitioner, have prayed that their identity may not be disclosed and therefore S.9(2) has been invoked. The detaining authority has recorded that the petitioner is engaged in anti social activities and she is a dangerous person and further that she has become a threat to the public order and it was necessary to detain her. She has been found to be a bootlegger.

The learned counsel for the petitioner has submitted that the case, as has been set out in the detention order, even if taken to be true on their face value, may not constitute a case of breach of public order. Learned A.G.P. has failed to show as to how the grounds, on which detention order had been passed, make out a case of breach of public order. The learned A.G.P. has pointed out that her representation against detention was rejected and the detention order was confirmed by the Board.

In view of several decisions of the Supreme Court, all these grounds taken together to be correct on their face value, do not constitute a case of breach of public order. It can at the most be said to be a case of breach of law and order.

In the facts and circumstances of this case, the detention order dt.19.7.99 passed by the District Magistrate, Bhavnagar District, Bhavnagar therefore cannot be sustained in the eye of law. The same is hereby quashed and set aside. It is directed that the petitioner shall be released forthwith if not required to be detained otherwise under any other detention order or in any other criminal case.This Special Civil Application is allowed. Rule is made absolute.

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